

REMARKS

The above-referenced application has been reviewed in light of the Office Action mailed May 2, 2005. By the present amendment, the Applicant has amended claims 1 and 5-11, added new claim 12 while claims 2 and 3 were withdrawn in the Office Action as being drawn to a non-elected species. It is respectfully submitted that the claims pending in the application do not introduce new subject matter, are fully supported by the specification, and are patentable over the prior art. Prompt and favorable consideration of these claims is earnestly sought.

In the Office Action, claim 11 was objected to for a grammatical error. By the present amendment, claim 11 has been amended to recite a "system as in claim 1" rather than a "system as in any of claim 1." It is respectfully submitted that the objection of the Office Action has been overcome.

In the Office Action, claims 1 and 4-11 were rejected under 35 U.S.C. § 102 (b) as anticipated by or, in the alternative, under 35 U.S.C. § 103 (a) as obvious over U.S. Patent No. 3,875,595 to Froning (the '595 patent). The Office Action stated that the '595 patent discloses a cannula and a retractor including a shaft and an inflatable bladder. The Office Action asserted that the inflatable bladder is inherently capable of retracting opposed surfaces of a bone joint since the inflation of the bladder would inherently apply an outward pressure against the opposed surfaces to retract them. The Office Action stated that, alternatively, it would have been obvious that inflatable bladder is capable of retracting opposed surfaces of a bone joint for the same reasons.

As presently amended, claim 1 recites a system for retracting opposed surfaces of a bone joint including, *inter alia*, a cannula and a retractor. The retractor includes a shaft and an inflatable bladder wherein "expansion of the bladder separates the opposed surfaces."

The '595 patent relates to a system for replacing a nucleus of an invertebral disc with a prosthesis (see Column 2, lines 27-58 and Figures 2 and 3 reproduced below). Specifically, the '595 patent discloses that once tube 31 is positioned and secured in the desired location an instrument (not shown) may be inserted through the bore in tube 31 to spread adjacent vertebrae apart by tilting. Further still, the '595 patent discloses that "forceps 36 having pincers 37 at the anterior end thereof is used to remove the remaining nucleus of disc 12. Thus a void 27 is created inside the annulus fibrosis of disc 12 into which the prosthesis 46 is subsequently installed."

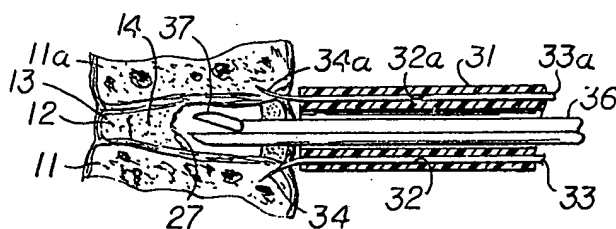


Fig. 2

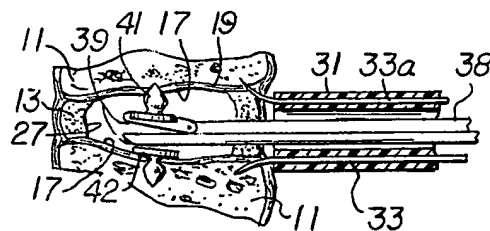


Fig. 3

The '595 patent further discloses (Column 3, lines 4-6 and 19-22, and Figure 5 reproduced below) that prosthesis 46 is a "hollow, bladder-like member having in expanded shape, the appearance of the natural nucleus 14 of a disc 12." Further still, the prosthesis has certain characteristics including, "holding fluid or water under pressure substantially duplicating the normal disc."

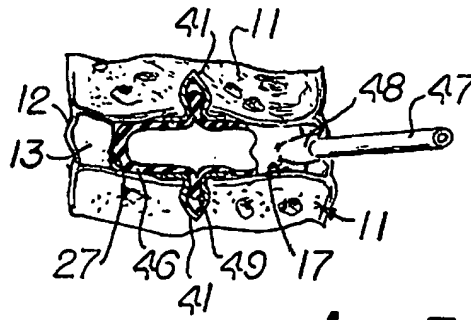


Fig. 5

Therefore, the '595 patent discloses separating adjacent vertebrae using a device that is not shown or described, removing the nucleus of a disc using forceps, and replacing the nucleus of the disc with a prosthesis. The '595 patent does not disclose or suggest a system for retracting opposed surfaces of a bone joint including, *inter alia*, a cannula and a retractor having an inflatable bladder "wherein expansion of the bladder separates the opposed surfaces" as recited in amended claim 1. Therefore, it is respectfully submitted that amended claim 1 is neither anticipated nor suggested by amended claim 1 and the rejection of the Office Action has been overcome. Since claims 4-12 depend directly or indirectly from amended claim 1, it is respectfully submitted that these claims are not anticipated or suggested by the '595 patent and the rejection of the Office Action has been overcome.

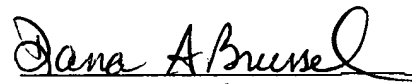
New claim 12 depends directly from amended claim 1. As discussed hereinabove, amended claim 1 is neither anticipated nor suggested by the '595 patent. Therefore, it is respectfully submitted that new claim 12 is allowable over the prior art.

Appl. No. 10/752,933
Amdt. dated June 23, 2005
Reply to Office Action mailed May 2, 2005

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims pending in the application, namely claims 1 and 4-12, are in condition for allowance. Should the Examiner desire a telephonic interview to resolve any outstanding matters, he is sincerely invited to contact the undersigned at (631) 501-5713.

Respectfully submitted,

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